

DEC 12 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIE MACK WALTON,

Petitioner - Appellant,

v.

GAIL LEWIS, Warden; et al.,

Respondents - Appellees.

No. 98-56396

D.C. No. CV-97-04121-JGD

MEMORANDUM*

**Appeal from the United States District Court
for the Central District of California
John G. Davies, District Judge, Presiding**

Submitted December 5, 2005**

Before: GOODWIN, W. FLETCHER and FISHER, Circuit Judges.

California state prisoner Willie Mack Walton appeals pro se from the district court's order denying his 28 U.S.C. § 2254 habeas petition challenging his

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

conviction for second degree murder. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Walton contends that his Sixth Amendment right to present a defense and his Fourteenth Amendment right to due process were violated by the trial court's exclusion of the preliminary hearing testimony of a witness. Because the state court's decision on this issue was not contrary to or an unreasonable application of clearly established federal law, as determined by the United States Supreme Court, we affirm the district court's decision denying relief. *See Taylor v. Illinois*, 484 U.S. 400, 410 (1988) (accused does not have unfettered right to present evidence that is inadmissible under standard rules of evidence).

Walton's request to broaden the Certificate of Appealability is denied.

AFFIRMED.